

REMARKS

Claims 1-15 and 19-65 are pending in the above-identified application. Support for new claims 64 is found at lines 5-9 on page 11 of the present specification. Support for new claim 65 is found at lines 14-25 on page 8 of the specification. Support for the changes to claims 1, 2, 9 and 43-48 is found at pages 7-8 of the specification.

Restriction Requirement Issues

Applicants respectfully maintain a traversal against the Restriction Requirement for the reasons stated in the Response to Restriction Requirement filed December 22, 2005, which reasons are deemed repeated herein. It is again requested that the composition and treatment method claims be re-joined with the elected compound claims, upon an indication of allowable subject matter.

Response to Indefiniteness Issues

Claims 1-4 have been rejected under 35 USC 112, second paragraph as allegedly being indefinite. Specifically, the following terms have been objected to: “alkylhydroxy”, “C₀₋₃alkyldimethylamino” and “alkanol”.

Regarding the term “alkylhydroxy”, it is noted that claims 1 and 2 have been amended so as to change the term “C₀₋₃alkylhydroxy” to read --C₁₋₃alkoxy, hydroxy --. In this way, the use of the term “alkoxy” is consistently maintained throughout the claims. It is noted that the reason the term “C₀₋₃alkylhydroxy” was used in the first place was in order to encompass both the alkoxy and hydroxy substituents in one term. In any case, it is submitted that the present claim language is appropriate and fully supported by the disclosure of the present specification.

Regarding the term “C₀₋₃alkyldimethylamino”, it is submitted that one skilled in the art would clearly understand that this term refers to an amino group which is bonded to two methyl groups and a third “C₀₋₃alkyl” group that is either a C₁₋₃alkyl group or a hydrogen atom (i.e.

C₀alkyl). It is clear from the consistent use of substituent carbon number ranges throughout the specification that the carbon number range modifier, such as “C₀₋₃”, only modifies the next adjacent alkyl group. Thus, the term “C₀₋₃alkyldimethylamino” includes a first “C₀₋₃alkyl” portion which may contain from zero to three carbon atoms; and a second “dimethylamino” portion which requires the amino group to be bonded to two methyl groups. The carbon range of “0-3” does not modify any of the terms after the immediately succeeding adjacent term “alkyl”. Consequently, one skilled in the art, upon reading the disclosure of the present specification, would clearly understand that the carbon range modifies only the term “alkyl” and does not modify any subsequent portions of this term. This means that this substituent encompasses an amino group having either the combination of two methyl groups and a hydrogen atom (C=zero) or the combination of two methyl groups and a third alkyl group having one to three carbon atoms.

Regarding the term “alkanol”, it is submitted that the definition at page 8, lines 9-12 of the specification makes it clear that this term refers to an alkyl substituent having a hydroxy group, wherein the alkyl group bonds through a carbon atom and not through the oxygen atom of the hydroxy group (i.e. it is not an alkoxy group). Consequently, the term “C₁₋₃alkanol” has been changed to-- hydroxyC₁₋₃alkyl --. Other consistent changes have also been made in this regard. It is submitted that one skilled in the art would clearly understand this definition based on the disclosure of the present specification.

In view of the above discussion, it is submitted that all of the above-discussed terms satisfy all applicable definiteness requirements, such that the above-noted rejection should be withdrawn.

Removal of Basis for Anticipation Rejection

Claims 2-11 and 29-63 have been rejected under 35 USC 102(b) as being anticipated by Van Wagenen '927 (WO 99/26927).

The above-noted rejection should now be withdrawn, since the definition of “Q” as recited in previously amended claim 1 has now also been inserted into claims 2, 9 and 43-44. Thus, substituent Q must be saturated or partially unsaturated which excludes the compounds of Van Wagenen '927. Consequently, it is requested that this rejection be withdrawn.

Removal of Basis for Written Description Rejection

Claims 1, 3-11 and 29-63 have been rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the “written description requirement”. The basis for this rejection is the insertion of the exclusionary proviso at the end of claim 1. Claim 1 has now been amended so as to delete the exclusionary proviso. This rejection is traversed based on the following reasons.

Claim 1 no longer recites the exclusionary proviso as noted immediately above. Claim 1 has been amended such that the substituent R⁴ can not be an unsubstituted amino group. In this regard, the term “C₀₋₃alkylamino” has been changed to read -- C₁₋₃alkylamino --. It is submitted that there is clear support in the specification for this modification to the carbon range of this term, especially since this is a small range such that one skilled in the art would immediately envisage all of the narrower carbon number ranges within the original range of “0-3”, including 1-3. Thus, one alternative range, i.e. the broadest range of 0-3, has now been excluded from the changes in favor of a different alternative narrower range, which is a completely acceptable type of negative limitation. *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977); *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff’d mem.*, 738 F.2d 453 (Fed. Cir. 1984); and MPEP 2173.05(i). Consequently, it is requested that the above-noted rejection be withdrawn.

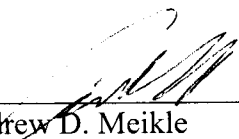
Allowable Claims

It is noted that claims 12 and 13 have been indicated as being in allowable form. It is requested that the remainder of the pending claims of the present application also be placed into allowable form.

If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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By 
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